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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,494	03/30/2004	Vincent T. Kozyrski	6611-0070	4927
50811	7590	07/22/2005	EXAMINER	
O'SHEA, GETZ & KOSAKOWSKI, P.C. 1500 MAIN ST. SUITE 912 SPRINGFIELD, MA 01115			WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/813,494

Applicant(s)

KOZYRSKI, VINCENT T.

Examiner

Gloria R. Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,14-19 and 21-40 is/are pending in the application.
- 4a) Of the above claim(s) 28-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,14-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/5/05</u> . | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. This action is in response to Applicants' amendment received on May 11, 2005.

***Claim Rejections - 35 USC § 112***

2. Claims 14-19 and 21-25 attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since this language does not meet the analysis set forth in MPEP 2181, i.e. "means for" or "step for" is not being used, or no function is set forth, or too much structure is set forth, the Examiner assumes that applicant does not wish to invoke 35USC112, paragraph 6.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14-16 and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Raffoni (USPN 6,651,861).

In reference to claims 14-16, 23-25, Raffoni discloses a fastener installing apparatus, comprising: a support frame (1); a selectively operable actuator (10) attached to the support frame (1), the actuator (10) including a piston (12) having a plunger (14) with a contact face shaped to accommodate a fastener, wherein the plunger travels in a stroke direction; a guide assembly (C) having a shear block (15) and an internal aperture operable to guide a fastener, the guide assembly (C) being further operable to guide the plunger (14); a clamp mechanism (53); a magazine (M) operable to feed a stack of fasteners into the guide assembly (C) and capable of

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fitting between a pair of fastener legs; the actuator (10) causes the piston (12) to drive at least one of the fasteners through the shear block of the guide assembly (C).

Regarding claims 26 and 27, Raffoni discloses a fastener installing apparatus, comprising: a support frame (1); a selectively operable hanger actuator (10) attached to the support frame (1), the hanger actuator (10) including a piston (12) having a plunger (14) with a contact face shaped to accommodate a fastener, wherein the plunger travels in a stroke direction; a guide assembly (C) having a shear block (15) and an internal aperture operable to guide a fastener, the guide assembly (C) being further operable to guide the plunger (14); a clamp mechanism (53); a magazine (M) that extends perpendicular to the stroke direction of the actuator (10) and operable to feed one or more fasteners into the guide assembly (C), and wherein operating the hanger actuator (10) causes the piston (12) to drive at least one of the fasteners through the shear block of the guide assembly (C).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 is rejected under 35 U.S.C. 103(a) as being anticipated by Raffoni (USPN 6,651,861) in view of Rogers (USPN 4,039,111).

In reference to claims 1, Raffoni discloses an apparatus, comprising: a support frame (1) including a base panel (2); a selectively operable hanger actuator (10) attached to the support

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frame (1), the hanger actuator (10) including a piston (12); a guide assembly (C) operable to guide a fastener; a magazine (M) operable to feed one or more fasteners into the guide assembly (C), and wherein operating the hanger actuator (10) causes the piston (12) to drive at least one of the fasteners through the guide assembly (C); and one or more workpiece supports (25, 26) attached to the base panel (2) and operable to support a portion of the workpiece. Raffoni does not disclose the workpiece supports (25, 26) as being operable to support a workpiece out of contact with the base panel (2).

Rogers teaches a fastener installing apparatus including a base panel (10) and one or more workpiece supports (30) that are attached to the base panel (10), and operable to support a portion of a workpiece (29) out of contact with the base panel (10). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the base panel of Raffoni to include the work piece supports of Rogers, since Rogers states at column 3 lines 23-24 that such a modification would provide elevated backing to the workpiece.

7. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being anticipated by Raffoni (USPN 6,651,861) in view of Pistorius (USPN 4,572,420).

In reference to claims 18 and 19, Raffoni discloses an apparatus for installing fasteners in a workpiece, wherein the plunger (14) has a contact surface, but is not disclosed as having any form of retention means. Pistorius teaches an apparatus for installing fasteners in a workpiece wherein the contact surface of a plunger (94) has magnets (144, 146). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the plunger of Raffoni to include the magnets of Pistorius for the purpose of positively aligning the fastener on the plunger with the workpiece.

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8. Claims 17 is rejected under 35 U.S.C. 103(a) as being anticipated by Raffoni (USPN 6,651,861) in view of Lorincz (USPN 5,890,276).

Regarding claim 17, Raffoni discloses an apparatus for installing fasteners in a workpiece, wherein the plunger (14) has a contact surface, but is not disclosed as having any form of retention means. Lorincz teaches an apparatus for installing fasteners in a workpiece, wherein the contact surface of a plunger (17) includes position tabs (19). It would have been obvious to one having ordinary skills in the art at the time of the invention to modify the plunger of Raffoni to include the position tabs of Lorincz for the purpose of positively aligning the fastener on the plunger with the workpiece.

9. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being anticipated by Raffoni (USPN 6,651,861).

With respect to claims 21 and 22, Raffoni discloses a clamp mechanism (53) selectively operable to clamp a stack (S) of fasteners adjacent a shear block (15), but does not disclose a clamp mechanism operable to prevent movement of at least one of the fasteners toward the guide assembly. Raffoni does, however, disclose a second and third clamp mechanism (62, 63) in addition to the previously discloses clamp mechanism (53), wherein the second and third clamp mechanism (62, 63) are selectively operable between a clamped position and an extended position. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Raffoni to include an additional clamped mechanism, as taught by Raffoni, for the purpose of preventing movement of at least one of the fasteners.

***Response to Arguments***

10. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's arguments regarding claims 14-19 and 21-25 have been fully considered but they are not persuasive.

Applicant has argued that the apparatus disclosed by Raffoni does not disclose an apparatus having an ability to clamp a stack of hangers adjacent the shear block, thus enabling each hanger to be cleanly separated from the stack and avoids bent and/or partial separations of hangers which could result in the apparatus jamming. Examiner disagrees considering the fact that Raffoni states in column 3 lines 48-51 that the clamp mechanism (53) urges and maintains the stack of fasteners (5) against shoulders (50, 51) and the shear block (151 figures 8 and 9).

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

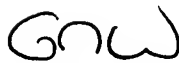
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473.


The examiner can normally be reached on 8:30 am - 7:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks  
Examiner  
Art Unit 3721

  
grw  
July 18, 2005

  
SCOTT A. SMITH  
PRIMARY EXAMINER